



BEFORE THE NATIONAL GREEN TRIBUNAL  
WESTERN BENCH, PUNE

APPEAL NO.41 OF 2020(WZ)

**IN THE MATTER OF:**

Hiteshbhai Uttambhai Dhodi and Ors

....Appellants

Versus

Ministry of Environment, forest and Climate Change and Or.

.....Respondents

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1.	REJOINDER AFFIDAVIT ON BEHALF OF THE APPELLANTS TO THE REPLY BY RESPONDENT NO.4-MADURA CARBON (INDIA) LTD	2-15

Place: Pune

Date: 02.03.2023

Filed By

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Advocates for the Appellants

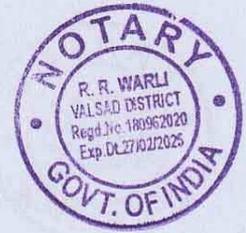
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Hitesh U. Dhodi



BEFORE THE NATIONAL GREEN TRIBUNAL  
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APPEAL NO.41 OF 2020(WZ)

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REJOINER AFFIDAVIT ON BEHALF OF THE APPELLANTS TO THE  
REPLY BY RESPONDENT NO.4-MADURA CARBON (INDIA) LTD

I, Hiteshbhai Uttambhai Dhodi, Aged about 40 years, S/o Uttambhai Gajiyabhai Dhodi R/o Karajgam-Fansa, Ta Umargam, Dist. Valsad, Gujarat, 396155 do hereby solemnly affirm and state as under: -:

1. That I am the appellant no.1 in the above-mentioned matter and as such am competent to depose the present rejoinder affidavit to the reply of respondent no.4 on behalf of all the appellants.

REJOINER TO PARAWISE REPLY

1. That the contents of para 1 are denied as wrong and false. It is vehemently denied that the present appeal is to harass the respondent no. 4, the present appeal has been filed as the setting up of the Carbon Black manufacturing is going to affect the health, and livelihood of the appellants and residents of the surrounding villages.

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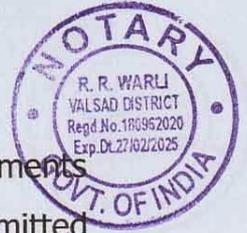


2. That the contents of para 2 to the extent of the description of R-4 is concerned needs no reply. In response to the contention of R-4 as regards to the survey numbers over which Carbon Black manufacturing plant is going to come up, it is submitted that the contentions of the appellants as regards to survey numbers raised in the appeal have not been responded to by R-4. The first Pre-feasibility report for the project submitted to R-1/MoEF&CC shows that the layout plan for the manufacturing unit was to be located over Survey No. 3705 to 3710, 3712, 3713, 3715, 3717, 3718, 3720, 3722 to 3724, 3726, 3727, 3730, 3733 to 3740, 3742, 3743, 4049, 4084 to 4090, 4095, 4105, 4107, 4108, 4110, 4112, 4133 to 4135, 4301, 4317, 5134, 5220 to 5222, 5226, 5227, 5236, 5264, Village: Karajgam, Fansa Taluka: Umbergaon, Dist.: Valsad, Gujarat. Afterwards, R-4 submitted another layout plan which reduced the above survey numbers and Survey No. 3719, 3725, 4318, were included for carbon project, were not part of the application for prior environment clearance submitted earlier or the reply submitted by R-4/Madura Carbon (India) Ltd. to R-1/MoEF&CC dated 19.09.2018.

3. That the contents of para 3 need no reply as the same is matter of record.
4. That the contents of para 3 need no reply as the same is matter of record.
5. That in response to the contents of para 5 it is submitted that the emissions from carbon black manufacturing include particulate matter, carbon monoxide (CO), organics, nitrogen oxides, sulphur

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compounds, polycyclic organic matter (POM), and trace elements which are carcinogenic. The primary hazardous air pollutant emitted from carbon black manufacturing is benzene. The VOC, in India is counted as mixture of organic chemicals including polycyclic organic matter (POM) and benzene etc Volatile organic compounds (VOCs) are organic chemical compounds that evaporate easily at room temperature. Gasoline, benzene, formaldehyde, toluene, xylene, styrene, and perchloroethylene are also rich sources of VOCs. Irritation to skin and eye, sensitization, central nervous system effects, carcinogenicity, and liver and kidney effects have been reported in experimental animals and humans. The health effects of carbon black manufacturing over the surrounding human population and environment have to be taken into account and a plant which is within 200 m of residential area of the village should not be allowed.

6. That in response to the contents of the para 6 it is submitted that what is of importance is the type of industry that is going to be set up over the lands for which NA has been obtained. The Gram Panchayat at an earlier point in time was misled wherein it was stated by the company that the land is to be used for setting up textile plant though later on it was revealed that it's a carbon black manufacturing plant. On coming to know of this fact, the Gram Panchayat cancelled its earlier resolution. There is widespread opposition to the proposed carbon black project amongst the residents of the village, as their residential and agricultural areas adjoins the unit. The tribal farmers of the village whose small agricultural holdings come within the ambit of the proposed project are going to severely affected from the operation of the unit as emission of carbon black powder is going to

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severely affect the productivity of their agricultural procedure which is their only source of livelihood.

7. That the contents of para 7 are denied as wrong and false. the proposed carbon black project is proposed to come up over an agricultural area of 23 acres which is in the middle of Village Karajgam. At a distance of 500-800 m from the periphery of the project approximately 3149 residents reside in 10 streets and as such the residential area of the village is in close proximity of the proposed project and would be affected by the air pollution caused by the unit in the form of carbon black powder. The emission of carbon black powder and VOCs comprising benzene are harmful for the health of the surrounding residents of village Karajgam. The anticipated impacts of VOCs has not been dealt with in the FEIA as can be first seen from the Draft EIA report under the compliance of ToR section where a specific ToR was "*Details on VOCs emission control system from vents, stacks, fugitive emissions and flare management, etc.*" the response is "Details of air emission and control measures is furnished in Chapter 2, Section 2.6.2, Page No 2.10 to 2.12 of Draft EIA report. Detailed EMP for Air pollution and control is furnished in Chapter 10, Section 10.4, Page No 10.2 to 10.5 of Draft EIA report." A perusal of these sections shows that there are no details as to the types and characteristics of VOCs that would be emitted as the same is depended upon the type of technology adopted which is not specified in the Draft EIA or FEIA and the quality of the raw material used as it would determine the primary particle sizes and the emissions. These aspects have not been addressed in the EMP prepared by R-4.

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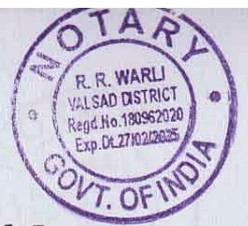
8. That the contents of para 8 need no reply as the same is matter of record.

9. That in response to the contents of para 9 it is submitted that there was lot of opposition from the residents of the village Karanj at the time of public hearing. The issues that were raised have not been addressed in the FEIA. Some of the issues that were raised at the public hearing as follows:

- Air pollution from proposed carbon black manufacturing plant especially given the location of the proposed unit as there are exist hills at a distance of 400 m and the existence of these hills has not been factored in the air modelling studies as this would affect dispersion of emissions from the unit. The emissions from the carbon black unit would be trapped thereby causing air pollution in the village that adjoins it.
- The trees of surrounding area, land, farming land & vegetation of land will be affected by PM, SO<sub>2</sub> and NO<sub>2</sub> emission from the project. The land of the proposed carbon plant is on agricultural land and agricultural land of the residents of karanj adjoins the proposed unit. There are orchards in the surrounding area which is the sole source of livelihood for the tribal residents of the village Karajgam.
- Management of VOC, odour and noise emanating from the carbon black unit.
- As Air, Water, noise and land is going to be polluted due to the manufacturing of Carbon Black, the residents are against this project as other examples of carbon black units in Gujarat has shown that there is excessive pollution on account of the operation of the plant.

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- Air quality will get polluted due to the establishment of R-4/Madura Carbon India Ltd. The residential area is just 200m away from the proposed project. The godown are supposed to be made for storing the waste generation. So, due to these arrangements, the tribal community of the surrounding area are going to be affected. The fertile land is also therewithin this area.
- Within 200 m of the proposed carbon plant is Karajgam primary school, Karajgam primary school (Aagriwad), Anganwadis (Brahmin Faliya, Krishaniwad, Aagriwad, Rayfalia), Karajgam Government health centre, Karajgam Seva Sahkari Mandal, Government grain stores and all of them will be affected by the air and noise pollution.
- No description of raw material linkages of Feed Stock (Carbon Feed Stock) from local suppliers as it would determine the emission levels at the time of operation.
- The land is not Non- agricultural land. It is agriculture land. The land is 73-AA and covered under PESA act and no permission of Gram Sabha has been taken for the project. The land of the Tribals has been taken for the unit which will result in the tribal families becoming landless.
- The operation of the carbon black unit would cause noise levels that is going to affect the health of the residents of the surrounding villages and especially Karanj.
- The generated Carbon black is carcinogenic that affect lungs of human due to its inhalation and also causes respiratory problems.
- Manufacturing of carbon black would use Pyrolysis process and use of this process is restricted in the state and as such there is no approval on record from GPCB.

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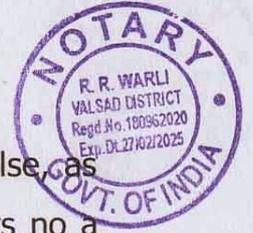




10. That the contents of para 10 need no reply.
11. That the contents of para 11 are denied as wrong and false. The impugned EC is required to be cancelled as it is based upon factually incorrect information and is aimed at misleading the authorities to seek EC for the project. This aspect has not been considered either in the scoping or appraisal process as mandated by EIA Notification, 2006.
12. That the contents of para 12 need no reply.
13. That the contents of para 13 are denied as wrong and false. The appeal is not premature as EC has already been granted to R-4 and appellants are challenging the grant of EC in the background of the issues that had been raised at the time of public hearing especially with regard to the track record of the operation of carbon black manufacturing units in the country and especially in Gujarat. These aspects are of significance as the proposed unit of R-4 is to be located in the vicinity of the residential areas of the village.
14. That in response to the contents of the para 14 it is submitted that only one advertisement is annexed at page 1043 and not two as stated in the para under reply. The copy of the environment clearance was to be sent by the project proponent to the concerned Panchayat in terms of General Condition Sl no. (xvii) of the EC and R-4 has not put on record any letter that shows compliance with this condition.

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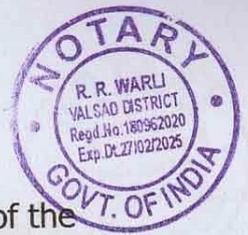




15. That the contents of para 15 are denied as wrong and false, as there is no letter on record of the Collector stating that its no a Scheduled area.
16. That the contents of para 16 need no reply and the contents of the corresponding paras of the appeal are reiterated as true and correct.
17. That the contents of para 16 need no reply and the contents of the corresponding paras of the appeal are reiterated as true and correct.
18. That the contents of para 16 need no reply and the contents of the corresponding paras of the appeal are reiterated as true and correct.
19. That the contents of para 19 are denied as wrong and false. A perusal of the documents annexed at Annexure R-7 shows that declaration by R-4 as regards to the land in question not being covered by PESA is no consequence. The Gram Panchayat certificate that is annexed is only specifying the distance of the structures in the village to the proposed unit. Interestingly, this certificate is not mentioning all the survey numbers over which the unit has to be set up. The Gram Panchayat has withdrawn the resolution after coming to know that carbon black unit is going to be set up adjoining the village.
20. That the contents of para 20 are denied as wrong and false. The Hon'ble Tribunal has jurisdiction to deal with issues arising from protection of the environment including actions that have been taken under different statues. There are judgments that affirm the power and jurisdiction of the Hon'ble Tribunal.

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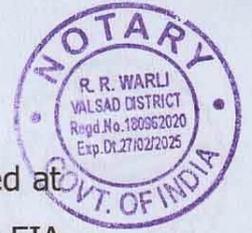




21. That the contents of para 21 need no reply and the contents of the corresponding paras of the appeal and foregoing paras
22. That the contents of para 22 are denied as wrong and false. The Hon'ble Tribunal has jurisdiction to deal with issues arising from protection of the environment including actions that have been taken under different statues. There are judgments that affirm the power and jurisdiction of the Hon'ble Tribunal.
23. That the contents of para 23 need no reply and the contents of the corresponding paras of the appeal are reiterated as true and correct.
24. That the contents of para 24 need no reply and the contents of the corresponding paras of the appeal are reiterated as true and correct.
25. That the contents of para 25 are denied as wrong and false. The appellants have perused the Draft EIA and Final EIA reports and relevant portions of the same has been annexed to the appeal, so it is vehemently denied that the appellants have not perused these documents. The EMP in the EIA report is no addressing the issues raised by the appellants and the contents of the appeal are not being repeated for the sake of brevity, but the appellants reserves the right to refer to the documents on record in support of the submissions made in the appeal.
26. That in response to the contents of para 26 it is submitted that the contents of para 17 are reiterated and the same are not being extracted to avoid repetition wherein some of the issues raised at the time of public hearing has been collated.
27. That the contents of para 77 are denied as wrong and false. the contents of the appeal are reiterated and the same is not being

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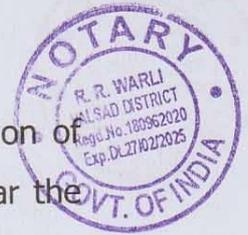


extracted to avoid repetition wherein some of the issues raised at the time of public hearing has been collated and also the final EIA is not addressing the issues raised at the time of public hearing.

28. That the contents of para 28 are denied as wrong and false. The appellants have elucidated in the application seeking condonation of delay the reasons for delay which are reasonable and sufficient and the Hon'ble Tribunal should exercise its powers and condone the delay in filing the appeal and hear the same on merits. The appellants have always been diligent in raising the issue as regards to setting up of the present unit. They also participated in the public hearing so as to bring attention to the issues of the residents living in the vicinity of the proposed unit of R-4. The judgment relied upon by the R-4 is inapplicable to the present appeal as the NGT Act provides for period of limitation which starts from the date order of passing of the order granting EC is communicated.
29. That the contents of para 28 are denied as wrong and false. The appellants have elucidated in the application seeking condonation of delay the reasons for delay which are reasonable and sufficient and the Hon'ble Tribunal should exercise its powers and condone the delay in filing the appeal and hear the same on merits. The appellants have always been diligent in raising the issue as regards to setting up of the present unit. They also participated in the public hearing so as to bring attention to the issues of the residents living in the vicinity of the proposed unit of R-4.
30. That the contents of para 30 are denied as wrong and false and contents of the corresponding paras of the appeal are reiterated as true and correct.

Hitesh N. Dhadli





On basis of the submissions made hereinabove the application of condonation of delay in filing the appeal be allowed and hear the appeal on merits.

Hitesh U. Dhodi  
**DEPONENT**

VERIFICATION:

Verified at Bhilad, Valsad on 02 day of March, 2023 that the contents of above affidavit is true and correct to the best of my knowledge and understanding and nothing material has been concealed there from.

Hitesh U. Dhodi  
**DEPONENT**



Hitesh U. Dhodi



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Versus

Ministry of Environment, forest and Climate Change and Or  
..Respondents

**AFFIDAVIT**

I, Hiteshbhai Uttambhai Dhodi, Aged about 42 years, S/o Uttambhai Gajiyabhai Dhodi R/o Karajgam-Fansa, Ta Umargam, Dist. Valsad, Gujarat, 396155 do hereby solemnly affirm and state as under: -

1. That I am the appellant no.1 in the above-mentioned matter and as such am competent to depose the present affidavit.
2. That the accompanying rejoinder has been drafted by my counsel upon my instructions and the contents of same have been explained to me in the vernacular and are true and correct to the best of my knowledge and understanding.
3. That the annexures are the true copy of the originals.

Hitesh U. Dhodi



DEPONENT

VERIFICATION:

Verified at Bhilad, Valsad on 02 day of March 2023 that the contents of above affidavit are true and correct to the best of my knowledge and understanding and nothing material has been concealed there from.

Place: Bhilad, Valsad, Gujarat.

Date: 02.03.2023

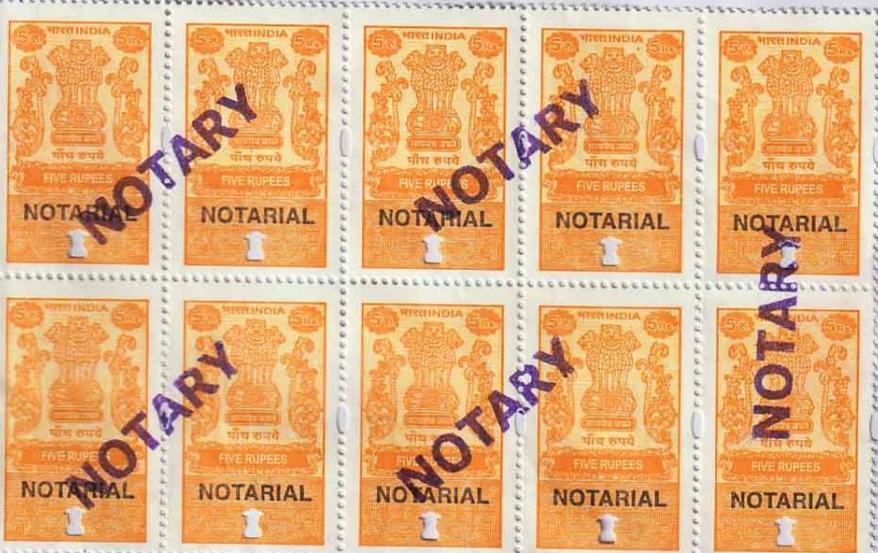


Hitesh U. Dhodli  
DEPONENT

Solemnly Affirmed Before me by  
Shri/Smt. Hitesh Uttam Dhodli  
of Karajgam Who has been  
identified before me by  
SI. No. \_\_\_\_\_  
\_\_\_\_\_ of \_\_\_\_\_  
whom I know Personally

RAJESH BHAIRAM RAMUBHAI WARLI  
ADVOCATE & NOTARY  
At. Zaroli, Po. Chhipawag  
Ta. Umbergaon, Dist. Valsad, Gujarat  
Mob. No. 9979387953

BOOK NO. 01  
PAGE NO. 154  
Serial NO. 1250  
DATE 2 MAR 2023



Hitesh U. Dhodli



भारत सरकार

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Government of India

नोंधणीनी ओणप / Enrollment No.: 1444/14441/00003

To  
 हितेशभाई उत्तमभाई धोडी  
 Hiteshbhai Uttambhai Dhodi  
 Karajgam  
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 9727431336

29/12/2013  
 69316500



तमारे आधार नंबर / Your Aadhaar No. :

**8369 5175 8999**

मारो आधार, मारी ओणप



भारत सरकार

Government of India



हितेशभाई उत्तमभाई धोडी  
 Hiteshbhai Uttambhai Dhodi  
 जन्म तारीख / DOB : 17/04/1980  
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**8369 5175 8999**

मारो आधार, मारी ओणप

Hitesh U. Dhodi